

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

CITY OF FLEMINGSBURG AND CITY OF)	
FLEMINSBURG UTILITY SYSTEM)	
ALLEGED FAILURE TO COMPLY WITH)	CASE NO. 2017-00079
KRS 278.495 and 49 CFR Part 192.605(a);)	
49 CFR Part 192.721; 49 CFR Part 199.105;)	
and 49 CFR 199.225)	

ORDER

The City of Flemingsburg Utility System (“Flemingsburg”) is a city-owned municipal utility in Kentucky whose operations include a natural gas system which engages in the distribution of natural gas at retail and which is subject to Commission jurisdiction for safety. Pursuant to KRS 278.495, the Commission has authority to regulate the safety of natural gas facilities that are “[o]wned or operated by any public utility, county, or city, and used to distribute natural gas at retail.” KRS 278.992(1) establishes the penalties for violations of any minimum safety standard adopted by the United States Department of Transportation (“DOT”) pursuant to the federal pipeline safety laws, 49 U.S.C. Section 60101, *et seq.*, and amendments thereto, pursuant to KRS 278.495(2) and KRS 278.992(1).

Commission Staff submitted to the Commission an Incident Investigation Report (“Report”) that described an incident involving Flemingsburg that occurred on January 28, 2016. On March 6, 2017, the Commission entered an Order that, among other things, found that it should conduct a formal investigation into the January 28, 2016 incident as well as into Flemingsburg’s safety practices related to the construction, installation, and

repair of natural gas facilities.¹ The Commission ordered that a written response to the allegations contained in the Report as well as certain other information be submitted to the Commission within 20 days of the date of the Order.² The Commission also ordered that any request for an informal conference with Commission Staff be set forth in writing and filed with the Commission within 20 days of the date of the Order.³ The March 6, 2017 Order was served by mailing a paper version of the Order to the address for Flemingsburg on file with the Commission and also as an attachment to an electronic mail message to the electronic mail address for Flemingsburg on file with the Commission.

On April 24, 2017, Flemingsburg submitted the Response to the March 6, 2017 Order along with a Motion for Enlargement of Time (“Motion”) for submitting its response, and a Request for an Informal Conference (“Request”). In support of its Motion, Flemingsburg stated that it has attempted for several years to get the Commission to correct the mailing address for Flemingsburg.⁴ The paper version of the Order was mailed to an incorrect address, and Flemingsburg did not have notice of the March 6, 2017 Order until a member of Commission Staff telephoned the Utilities Director for Flemingsburg on March 31, 2017.⁵ Flemingsburg acknowledges that it received an electronic version of the Order, but it states that the electronic mail message containing the electronic version of the Order went into a junk-mail folder.⁶

¹ Order (Ky. PSC Mar. 6, 2017) at 4.

² *Id.* at 5.

³ *Id.* at 6.

⁴ Response (filed Apr. 24, 2017) at 1.

⁵ *Id.* at 1 and 2.

⁶ *Id.*

The Commission finds that Flemingsburg's Motion demonstrates good cause for enlarging the time for the filing of the Response and Request. The Commission further finds, after reviewing the Response and Request, that an informal conference with Commission Staff should be scheduled. We find that Flemingsburg should be permitted to participate in the informal conference by telephone.

The Commission, having considered the Motion and Request and finding good cause, HEREBY ORDERS that:

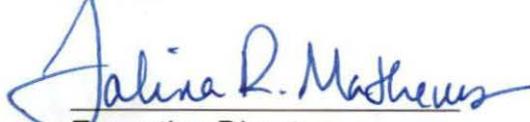
1. Flemingsburg's Motion for an Enlargement of Time is granted, and the Response is accepted for filing as of April 24, 2017.

2. Flemingsburg's Request for an Informal Conference is granted, and an informal conference with Commission Staff is scheduled for May 30, 2017, at 1:00 p.m. Eastern Daylight Time, at the Commission's offices at 211 Sower Boulevard, Frankfort, Kentucky. Commission Staff will contact counsel for Flemingsburg and provide instructions for participation by telephone.

By the Commission



ATTEST:


Executive Director

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